UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/015,855	12/13/2001	John F. Bisceglia	AUS920011004US1	7506

45109 7590 12/17/2007

IBM CORP (WSM)
C/O WINSTEAD SECHREST & MINICK P.C.
PO BOX 50784
DALLAS, TX 75201

EXAMINER	
STEELMAN, MARY J	

ART UNIT	PAPER NUMBER
2191	

MAIL DATE	DELIVERY MODE
12/17/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JOHN F. BISCEGLIA

Appeal 2007-3447
Application 10/015,855
Technology Center 2100

Decided: December 17, 2007

Before HOWARD B. BLANKENSHIP, ST. JOHN COURTENAY III, and STEPHEN C. SIU, *Administrative Patent Judges*.

SIU, *Administrative Patent Judge*.

DECISION ON APPEAL

I. STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1-47. We have jurisdiction under 35 U.S.C. § 6(b). We affirm.

A. Invention

1The invention at issue relates to a process for developing software applications in a development environment. (Spec. 1). In particular, a development environment for developing a software application is created and managed such that the development environment conforms to client standards and mimics a client's target environment. (*Id.* 11).

B. Illustrative Claims

Claim 1, which further illustrates the invention, follows.

1. A method for creating and managing a development environment that mimics a target environment where a software application will be implemented comprising the steps of:

receiving a first request comprising a description of said development environment and said software application to be developed, wherein said development environment comprises hardware components and software components;

reviewing said first request in accordance with control information for managing said first request;

assigning said first request to one or more developers;

processing said first request;

establishing said development environment upon said processing said first request; and

monitoring said development environment asynchronously for violations of conditions established by said control information.

C. REJECTION

Claims 1-47 stand rejected under 35 U.S.C. § 102(e) as being unpatentable over U.S. Patent No. 6,405,364 ("Bowman-Amuah").[1]

II. CLAIM GROUPING

1"When multiple claims subject to the same ground of rejection are argued as a group by Appellants, the Board may select a single claim from the group of claims that are argued together to decide the appeal with respect to the group of claims as to the ground of rejection on the basis of the selected claim alone. Notwithstanding any other provision of this paragraph, the failure of Appellants to separately argue claims which Appellants have grouped together shall constitute a waiver of any argument that the Board must consider the patentability of any grouped claim separately." 37 C.F.R. § 41.37(c)(1)(vii) (2005).[2]

---

[1] The Examiner submits that claims 1-47 are rejected under 35 U.S.C. § 102(b). However, Bowman-Amuah has a filing date of August 31, 1999 and an issue date of June 11, 2002 while the instant application has a filing date of December 13, 2001, which is prior to the issue date but after the filing date of Bowman-Amuah. Therefore, Bowman-Amuah qualifies as a reference under 35 U.S.C. § 102(e)(2) but not 35 U.S.C. § 102(b). We will consider claims 1-47 as standing rejected under 35 U.S.C. § 102(e).

[2] We cite to the version of the Code of Federal Regulations in effect at the time of the Appeal Brief. The current version includes the same rules.

Appellant argues claims 1, 15, 26, and 37 as a first group (App Br. 6-10); claims 2, 16, 27, and 38 as a second group (*Id.* 11); claims 3, 17, 28, and 39 as a third group (*Id.* 11-12); claims 4, 18, 29, and 40 as a fourth group (*Id.* 12-13); claims 5, 19, 30, and 41 as a fifth group (*Id.* 13-14); claims 6, 20, 31, and 42 as a sixth group (*Id.* 14-15); claims 7, 21, 32, and 43 as a seventh group (*Id.* 15); claims 8, 22, 33, and 44 as an eighth group (*Id.* 15-16); claims 9, 23, 34, and 45 as a ninth group (*Id.* 16-17); claim 10 as a tenth group (*Id.* 17-18); claim 11 as an eleventh group (*Id.* 18); claim 12 as a twelfth group (*Id.* 18-20); claims 13, 24, 35, and 46 as a thirteenth group (*Id.* 20); and claims 14, 25, 36, and 47 as a fourteenth group (*Id.* 20-21).

We select claim 1 as the sole claim on which to decide the appeal of the first group, claim 2 as the sole claim on which to decide the appeal of the second group, claim 3 as the sole claim on which to decide the appeal of the third group, claim 4 as the sole claim on which to decide the appeal of the fourth group, claim 5 as the sole claim on which to decide the appeal of the fifth group, claim 6 as the sole claim on which to decide the appeal of the sixth group, claim 7 as the sole claim on which to decide the appeal of the seventh group, claim 8 as the sole claim on which to decide the appeal of the eighth group, claim 9 as the sole claim on which to decide the appeal of the ninth group, claim 10 as the sole claim on which to decide the appeal of the tenth group, claim 11 as the sole claim on which to decide the appeal of the eleventh group, claim 12 as the sole claim on which to decide the appeal of the twelfth group, claim 13 as the sole claim on which to decide the appeal

of the thirteenth group, and claim 14 as the sole claim on which to decide the appeal of the fourteenth group.

III. CLAIMS 1, 15, 26, AND 37

As set forth above, we select claim 1 as the sole claim on which to decide the appeal of the group. "Rather than reiterate the positions of parties *in toto*, we focus on the issue therebetween." *Ex Parte Filatov*, No. 2006-1160, 2007 WL 1317144, at *2 (BPAI 2007).

Appellant disputes the Examiner's finding of anticipation of claim 1 and asserts that Bowman-Amuah fails to teach each feature of claim 1 (App. Br. 6-10). Appellant asserts that each of the passages of the Bowman-Amuah reference cited by the Examiner fails to correspond to claim 1 (App. Br. 6-10) but fails to provide specific arguments as to how any of the cited passages of Bowman-Amuah differs from corresponding portions of claim 1. For instance, the Examiner cites Bowman-Amuah as disclosing "specifying the requirements of the system to be built and the implementation strategy to fulfill the requirements" (col. 2, ll. 30-43) and further equates specifying the requirements of the system to the claim 1 feature of a first request comprising a description of the development environment (Ans. 3-4). In response, Appellant asserts that "there is no language in the cited passages that discloses receiving a request comprising a description of the development environment and the software application to be developed" (Reply Br. 3). From the record, we find that that "specifying the

requirements of the system to be built" constitute the same features of a request that comprises "a description of the development environment." Appellant fails to provide evidence or logical reasoning to the contrary.

Similarly, the Examiner cites portions of the Bowman-Amuah reference as disclosing reviewing the first request of claim 1 in accordance with control information, assigning the first request to developers, processing the first request, establishing said development environment upon the processing of the first request, and monitoring the development environment (Ans. 7-10). In each instance, Appellant asserts that the cited portions of Bowman-Amuah fail to disclose the corresponding portion of claim 1. Also in each instance, Appellant fails to provide arguments as to the specific differences between Bowman-Amuah and claim 1 other than stating that "there is no language in the cited passages that discloses" (*see, e.g.*, Reply Br. 4) each of the claim 1 elements. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). However, this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831 (Fed. Cir. 1990). Therefore, we are unconvinced by Appellant's assertions of the alleged lack of "language in the cited passages."

In addition, we also find that, regardless of its definition, the "first request comprising a description of the development environment" and the

"control information" of claim 1 constitute "non-functional descriptive material" and are not accorded patentable weight. *Functional* descriptive material consists of data structures or computer programs which impart functionality when employed as a computer component. *Non-functional* descriptive material refers to data content that does not exhibit a functional interrelationship with the substrate and does not affect the way the computing processes are performed. See MPEP § 2106.01 ("'Non-functional descriptive material' includes but is not limited to music, literary works and a compilation of mere arrangement of data.").

When "non functional descriptive material" is recorded or stored in a memory or other medium (i.e., substrate) it is treated as analogous to printed matter cases where what is printed on a substrate bears no functional relationship to the substrate and is given no patentable weight. *See In re Gulack,* 703 F.2d 1381, 1385 (Fed. Cir. 1983) ("Where the printed matter is not functionally related to the substrate, the printed matter will not distinguish the invention from the prior art in terms of patentability. Although the printed matter must be considered, in that situation it may not be entitled to patentable weight."). *See also Ex parte Curry,* 84 USPQ2d 1272 (BPAI 2005) (nonprecedential) (Federal Circuit Appeal No. 2006-1003; affirmed without opinion Jun. 12, 2006). The Examiner need not give patentable weight to descriptive material absent a new and unobvious functional relationship between the descriptive material and the substrate. *See In re Lowry,* 32 F.3d 1579, 1582-83 (Fed. Cir. 1994); *In re Ngai,* 367

F.3d 1336, 1338 (Fed. Cir. 2004). *See also Ex parte Mathias,* 84 USPQ2d 1276 (BPAI 2005) (nonprecedential) (Federal Circuit Appeal No. 2006-1103; affirmed without opinion Aug. 17, 2006).

We find that the first request and the control information constitute non-functional descriptive material. In other words, we find that the steps of receiving the first request, reviewing the first request in accordance with control information, assigning the first request, processing the first request, and establishing and monitoring the development environment do not change their functions based upon the content of the first request or the control information. Claim 1 recites, for example, establishing said development environment upon said processing of said first request and requires no more than establishing the development environment at the time of processing the first request. Regardless of the actual data content or development environment description of the first request, the development environment is established at the time of processing of the first request. Therefore, the first request and the control information bear no functional relationship to the substrate. As such, we accord these claim limitations no patentable weight as non-functional descriptive material.

Therefore, claim 1 requires no more than receiving data, reviewing the data in accordance with other data, assigning and processing the data, and establishing and monitoring a development environment upon processing the data. As set forth above, Bowman-Amuah appears to disclose each of these elements.

Because Appellant has failed to demonstrate the Examiner erred in rejecting claim 1, we affirm the rejection of claim 1 and of claims 15, 26, and 37, which fall therewith.

IV. CLAIMS 2, 16, 27, AND 38

As set forth above, we select claim 2 as the sole claim on which to decide the appeal of the group.

The Examiner finds that Bowman-Amuah discloses identifying a violation of a condition in which "a 'repository validation program' reports detected deviations from standards." (Ans. 27). Appellant disputes the Examiner's finding of anticipation of claim 2 and asserts that "[t]here is no language in the cited passage that discloses notifying a developer of a violated condition." (Reply Br. 8). As aforementioned, Appellant, while asserting a lack of "language in the cited passage," fails to provide specific arguments as to how the cited passage of Bowman-Amuah differs from the corresponding portion of claim 2. Specifically, we find the weight of the evidence supports the Examiner's position. We find that Bowman-Amuah's disclosure of reporting "detected deviations from standards" is equivalent to "notifying a developer of a violated condition." Appellant fails to provide logical reasoning to the contrary.

Because Appellant has failed to demonstrate the Examiner erred in rejecting claim 2, we affirm the rejection of claim 2 and of claims 16, 27, and 38, which fall therewith.

V. CLAIMS 3, 17, 28, AND 39

As set forth above, we select claim 3 as the sole claim on which to decide the appeal of the group.

The Examiner finds that Bowman-Amuah discloses a Repository Management team that performs certain analyses repeatedly (col. 21, ll. 22-23) and providing "custom reports or ad hoc queries that satisfy particular needs." (Col. 21, ll. 27-29). The Examiner further equates the generation of custom reports of the analyses which show "the occurrence of many standards violations" (col. 21, ll. 7-9) with inserting information of the violation of the condition in a report as recited in claim 3.

In response, Appellant asserts that "there is no language in the cited passages that discloses inserting information of a violation of a condition in a report" (Reply Br. 9). However, Appellant fails to provide a logical rationale as to how the cited passages of Bowman-Amuah differ from the features recited in claim 3. Based on the record, we find the weight of the evidence supports the Examiner's position. We find that providing custom reports that include "the occurrence of many standards violations" is equivalent to inserting information of a violation of a condition in a report as recited in claim 3. Appellant fails to provide a rationale to the contrary.

Because Appellant has failed to demonstrate the Examiner erred in rejecting claim 3, we affirm the rejection of claim 3 and of claims 17, 28, and 39, which fall therewith.

VI. CLAIMS 4, 18, 29, AND 40

As set forth above, we select claim 4 as the sole claim on which to decide the appeal of the group.

The Examiner finds that Bowman-Amuah discloses a "system, method, and article of manufacture" for "building systems in a development architecture framework" (col. 2, ll. 17-19) in which teams of "people are able to . . . share ideas and information" (col. 46, ll. 22-23) that includes status reports (col. 46, l. 35). Reports, such as the status reports, are generated with a query tool that "can be used to provide standard reports for designers and programmers." (Bowman-Amuah, col. 56, ll. 32-33; Ans. 28-29).

Appellant argues that "[t]here is no language in the cited passages that discloses inserting information on a status of the development environment in a report" and that "there is no language in the cited passages that discloses issuing such a report to a customer." (App. Br. 13). However, Appellant also fails to provide a logical rationale to support the contention that the cited passages of Bowman-Amuah differ from the features recited in claim 4.

Based on the record before us, we find the weight of the evidence supports the Examiner's position. We find Bowman-Amuah discloses inserting information on a status of the development environment in a report (i.e., generating status reports that includes the status of building systems in a development architecture framework) and issuing the report to a customer

(i.e., reports are generated for designers and programmers). Appellant fails to provide a rationale to the contrary.

In addition, as aforementioned, the information on the status of the environment is non-functional descriptive material because the recited information bears no functional relationship to the substrate. Specifically, we find that the step of inserting information in a report does not change its function based upon the content of the information inserted into the report. Regardless of the actual data content of the inserted information, the information is inserted into the report and issued to a customer according to claim 4. Because the inserted information bears no functional relationship to the substrate, we accord this claim limitation no patentable weight as non-functional descriptive material. *See Gulack,* 703 F.2d at 1385.

Because Appellant has failed to demonstrate the Examiner erred in rejecting claim 4, we affirm the rejection of claim 4 and of claims 18, 29, and 40, which fall therewith.

VII. CLAIMS 5, 19, 30, AND 41

As set forth above, we select claim 5 as the sole claim on which to decide the appeal of the group.

The Examiner finds that Bowman-Amuah discloses a profile (Responsibility, Accountability, and Authority (RAA) profiles) (col. 11, ll. 14-17) that includes various information constituting one of a statement of work, a profile of a server implemented in the development environment, a

profile of a network component implemented in the development environment and a profile of the development environment (Ans. 29). Specifically, the Examiner states that the RAA profile of Bowman-Amuah contains a "profile of development environment" (Ans. 29).

Appellant asserts that "[t]here is no language in the cited passages that discloses that the control information ... includes one or more of . . ." the elements recited in claim 5. (App. Br. 14). However, Appellant fails to provide a rationale as to how the information in the RAA profile differs from each of the recited elements of claim 5.

We find that the information in the RAA profile of Bowman-Amuah equates with at least a profile of the development environment. Appellant provides no substantive arguments to the contrary.

In addition, as aforementioned, the control information constitutes non-functional descriptive material because the recited control information bears no functional relationship to the substrate. For example, the first request is received, reviewed, assigned, and processed according to claim 1, from which the representative claim depends, and the development environment is established and monitored regardless of the actual data content of the control information. Because the control information bears no functional relationship to the substrate, we accord this claim limitation no patentable weight as non-functional descriptive material. *See Gulack,* 703 F.2d at 1385.

Thus, claim 5 requires no more than reviewing data (the first request) in accordance with other data (control information). We find that Bowman-Amuah discloses this feature as set forth above.

Because Appellant has failed to demonstrate the Examiner erred in rejecting claim 5, we affirm the rejection of claim 5 and of claims 19, 30, and 41, which fall therewith.

VIII. CLAIMS 6, 20, 31, AND 42

As set forth above, we select claim 6 as the sole claim on which to decide the appeal of the group.

The Examiner finds that Bowman-Amuah discloses a Service Level Agreement (SLA) that contains information (col. 30, ll. 48-55) including information to ensure "that the application and architecture can be installed" (col. 44, ll. 10-12). Also, Bowman-Amuah discloses that the SLA contains information for establishing a contract (col. 31, ll. 5-13). The Examiner further equates the information pertaining to the application and architecture of the system with information for standards for hardware components and software components of claim 6 and the information for establishing a contract of Bowman-Amuah with the information comprising contract conditions. (Ans. 29-30).

Appellant asserts that "[t]here is no language in the cited passages that discloses that a statement of work . . . includes . . ." the elements recited in claim 6. (App. Br. 14). However, Appellant fails to provide a rationale as to

how the information in the SLA of Bowman-Amuah differs from the recited elements of claim 6.

We find that the information in the SLA of Bowman-Amuah equates with the statement of work recited in claim 6. Appellant provides no substantive arguments to the contrary.

In addition, as aforementioned, the control information (comprising the statement of work that comprises elements recited in claim 6) constitutes non-functional descriptive material because the recited control information bears no functional relationship to the substrate. Because the control information bears no functional relationship to the substrate, we accord this claim limitation no patentable weight as non-functional descriptive material. *See Gulack,* 703 F.2d at 1385.

Thus, claim 6 requires no more than reviewing data (the first request) in accordance with other data (control information). We find that Bowman-Amuah discloses this feature as set forth above.

Because Appellant has failed to demonstrate the Examiner erred in rejecting claim 6, we affirm the rejection of claim 6 and of claims 20, 31, and 42, which fall therewith.

IX. CLAIMS 7, 21, 32, AND 43

As set forth above, we select claim 7 as the sole claim on which to decide the appeal of the group.

Appellant asserts that "[t]here is no language in the cited passage that discloses a server profile" (App. Br. 15) but fails to provide a rationale as to how the information disclosed in the cited passages of Bowman-Amuah differs from the recited elements of claim 7.

Also as aforementioned, the control information (comprising the server profile that comprises elements recited in claim 7) constitutes non-functional descriptive material because the recited control information bears no functional relationship to the substrate. Because the control information bears no functional relationship to the substrate, we accord this claim limitation no patentable weight as non-functional descriptive material. *See Gulack,* 703 F.2d at 1385.

Thus, claim 7 requires no more than reviewing data (the first request) in accordance with other data (control information). We find that Bowman-Amuah discloses this feature as set forth above.

Because Appellant has failed to demonstrate the Examiner erred in rejecting claim 7, we affirm the rejection of claim 7 and of claims 20, 31, and 42, which fall therewith.

X. CLAIMS 8, 22, 33, AND 44

As set forth above, we select claim 8 as the sole claim on which to decide the appeal of the group.

Appellant asserts that "[t]here is no language in the cited passages that discloses a network component profile" (App. Br. 16) but fails to provide a

rationale as to how the information disclosed in the cited passages of Bowman-Amuah differs from the recited elements of claim 8.

Also as aforementioned, the control information (comprising the network component profile that comprises elements recited in claim 8) constitutes non-functional descriptive material because the recited control information bears no functional relationship to the substrate. Because the control information bears no functional relationship to the substrate, we accord this claim limitation no patentable weight as non-functional descriptive material. *See Gulack,* 703 F.2d at 1385.

Thus, claim 8 requires no more than reviewing data (the first request) in accordance with other data (control information). We find that Bowman-Amuah discloses this feature as set forth above.

Because Appellant has failed to demonstrate the Examiner erred in rejecting claim 8, we affirm the rejection of claim 8 and of claims 22, 33, and 44, which fall therewith.

XI. CLAIMS 9, 23, 34, AND 45

As set forth above, we select claim 9 as the sole claim on which to decide the appeal of the group.

Appellant asserts that "[t]here is no language in the cited passage that discloses a profile of a development environment" (App. Br. 17) but fails to provide a rationale as to how the information disclosed in the cited passages of Bowman-Amuah differs from the recited elements of claim 9.

Also as aforementioned, the control information (comprising the profile of a development environment recited in claim 8) constitutes non-functional descriptive material because the recited control information bears no functional relationship to the substrate. As such, we accord this claim limitation no patentable weight as non-functional descriptive material. *See Gulack,* 703 F.2d at 1385.

Thus, claim 9 requires no more than reviewing data (the first request) in accordance with other data (control information). We find that Bowman-Amuah discloses this feature as set forth above.

Because Appellant has failed to demonstrate the Examiner erred in rejecting claim 9, we affirm the rejection of claim 9 and of claims 23, 34, and 35, which fall therewith.

XII. CLAIM 10

Bowman-Amuah discloses a Configuration Management team responsible for "change control" (col. 13, l. 65 – col. 14, l. 1). Change control "governs what software component is changed" (col. 28, ll. 39-40). Hence, we find Bowman-Amuah discloses updating (or changing) data.

As aforementioned, information, such as the information pertaining to a profile of a server, constitutes non-functional descriptive material because the recited information bears no functional relationship to the substrate. We therefore accord this claim limitation no patentable weight as non-functional descriptive material. *See Gulack,* 703 F.2d at 1385.

Claim 10 thus requires no more than updating or changing information or data. As set forth above, Bowman-Amuah discloses updating or changing data or information.

Because Appellant has failed to demonstrate the Examiner erred in rejecting claim 10, we affirm the rejection of claim 10.

XIII. CLAIM 11

As aforementioned, Bowman-Amuah discloses a Configuration Management team responsible for "change control" (col. 13, l. 65 – col. 14, l. 1). Change control "governs what software component is changed" (col. 28, ll. 39-40). We have found that Bowman-Amuah discloses updating (or changing) data, as discussed *supra*.

Also as aforementioned, information, such as the information pertaining to a network component implemented in a development environment, constitutes non-functional descriptive material because the recited information bears no functional relationship to the substrate. Because the information bears no functional relationship to the substrate, we accord this claim limitation no patentable weight as non-functional descriptive material. *See Gulack,* 703 F.2d at 1385.

Claim 11 thus requires no more than updating or changing information or data. As set forth above, Bowman-Amuah discloses updating or changing data or information.

Because Appellant has failed to demonstrate the Examiner erred in rejecting claim 11, we affirm the rejection of claim 11.

XIV. CLAIM 12

As aforementioned, Bowman-Amuah discloses a Configuration Management team responsible for "change control" (col. 13, l. 65 – col. 14, l. 1). Change control "governs what software component is changed" (col. 28, ll. 39-40). We have found that Bowman-Amuah discloses updating (or changing) data, as discussed *supra*. Also as aforementioned, information, such as the information pertaining to a development environment, constitutes non-functional descriptive material. *See Gulack,* 703 F.2d at 1385. As such, we accord this claim limitation no patentable weight.

Claim 12 thus requires no more than updating or changing information or data. As set forth above, Bowman-Amuah discloses updating or changing data or information.

Because Appellant has failed to demonstrate the Examiner erred in rejecting claim 12, we affirm the rejection of claim 12.

XV. CLAIMS 13, 24, 35, AND 46

As set forth above, we select claim 13 as the sole claim on which to decide the appeal of the group.

As aforementioned, information, such as the second request of claim 13, constitutes non-functional descriptive material because the recited

information bears no functional relationship to the substrate. Claim 13 requires that the second request be received. However, other than being received, the specific data content of the second request does not change or affect any of the other recited functions of claim 13 and therefore bears no functional relationship to the substrate. Because the second request bears no functional relationship to the substrate, we accord this claim limitation no patentable weight as non-functional descriptive material. *See Gulack,* 703 F.2d at 1385.

Claim 13 requires no more than receiving data or information. Bowman-Amuah discloses receiving data throughout the disclosure. For example, Bowman-Amuah discloses that Event Management receives an event message (col. 111, ll. 4-5), that management applications receive data (col. 111, ll. 16-17), and that proper updates are received from development (col. 129, ll. 55-56).

Because Appellant has failed to demonstrate the Examiner erred in rejecting claim 13, we affirm the rejection of claim 13 and of claims 24, 35, and 46, which fall therewith.

XV. CLAIMS 14, 25, 36, AND 47

As set forth above, we select claim 14 as the sole claim on which to decide the appeal of the group.

As aforementioned, information, such as the second request of claim 14, constitutes non-functional descriptive material because the recited

information bears no functional relationship to the substrate. Claim 14 requires that the second request be received. However, other than being received, the specific data content of the second request does not change or affect any of the other recited functions of claim 13 and therefore bears no functional relationship to the substrate. Because the second request bears no functional relationship to the substrate, we accord this claim limitation no patentable weight as non-functional descriptive material. *See Gulack,* 703 F.2d at 1385.

Claim 14 requires no more than receiving data or information. We find Bowman-Amuah discloses receiving data throughout the disclosure. For example, Bowman-Amuah discloses that Event Management receives an event message (col. 111, ll. 4-5), that management applications receive data (col. 111, ll. 16-17), and that proper updates are received from development (col. 129, ll. 55-56).

Because Appellant has failed to demonstrate the Examiner erred in rejecting claim 14, we affirm the rejection of claim 14 and of claims 25, 36, and 47, which fall therewith.

IV. ORDER

In summary, the rejection of claims 1-47 under § 103(a) is affirmed.

No time for taking any action connected with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

rwk

IBM CORP (WSM)
C/O WINSTEAD SECHREST & MINICK P.C.
PO BOX 50784
DALLAS, TX 75201